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EFFECTIVE FUNCTIONING OF BODIES ESTABLISHED PURSUANT TO UNITED NATIONS HUMAN RIGHTS INSTRUMENTS

Letter dated 10 January 1995 from the Ambassador, Chargé d'affaires, a.i., of the Federal Republic of Yugoslavia to the United Nations Office at Geneva addressed to the Chairman of the Commission on Human Rights

I have the honour to transmit herewith a copy of the letter from Mr. Vladislav Jovanovic, Minister for Foreign Affairs of the Federal Republic of Yugoslavia, addressed to the Chairman of the Fifth Meeting of Chairpersons of Human Rights Treaty Bodies, held at Geneva (see annex).

I should be grateful if you would have the present letter and its annex circulated as an official document of the fifty-first session of the Commission on Human Rights, under agenda item 18.

(Signed) Vladimir Pavićević

GE.95-10762

Annex

Letter dated 22 September 1994 from the Minister for Foreign Affairs of Yugoslavia addressed to the Chairman of the Fifth Meeting of Chairpersons of Human Rights Treaty Bodies

I have the honour and duty to address the Fifth Meeting of Chairpersons of Human Rights Treaty Bodies in order to draw attention to the illegal practice pursued in the United Nations concerning the Federal Republic of Yugoslavia's treaty capacity. All the more since the agenda of your meeting contains, inter alia, the review of recent developments relating to the work of the treaty bodies.

As of late, the practice of preventing representatives of the Federal Republic of Yugoslavia from participating in the review meetings on the implementation of the rights and duties under the conventions on human rights has become ever more frequent. Such decisions are legally unfounded and, as they are always initiated by the same group of countries, it is obvious that these acts are politically motivated without any basis in international law.

For example, at the beginning of this year, Yugoslav representatives were prevented from attending the meetings of the States parties to the International Convention on the Elimination of All Forms of Racial Discrimination, held on 17 January 1994, and to the Convention on the Elimination of All Forms of Discrimination Against Women, on 7 February 1994. The most recent example is the prevention of Yugoslav representatives from participating in the fourteenth meeting of the States parties to the International Covenant on Civil and Political Rights, held on 8 September 1994. This decision was adopted at a moment when the Federal Republic of Yugoslavia was considering most seriously acceding to the First Optional Protocol.

It is difficult to understand that the Federal Republic of Yugoslavia has been denied the right to participate in these meetings, after it had clearly expressed its wish to cooperate. I would like to remind the distinguished experts that, in accordance with the commitments stemming from the above Conventions, the Federal Republic of Yugoslavia has submitted extraordinary reports to the Committee for Human Rights, the Committee for the Elimination of Discrimination Against Women and the Committee for the Elimination of Racial Discrimination, and received the mission of the latter at the end of 1993. It is necessary to underline that, despite the decision of the States parties to the International Convention on the Elimination of All Forms of Racial Discrimination, the Government of the Federal Republic of Yugoslavia has recently submitted to the Committee for the Elimination of Racial Discrimination a supplementary report, which is yet another proof of its readiness and resolve to respect and implement, in good faith, the international commitments it has assumed to which it is bound by the Declaration of the Federal Assembly of the Federal Republic of Yugoslavia of 27 April 1992.

The decisions adopted at the above meetings are in direct contravention of the provisions of both Conventions and the International Covenant, as well as the general norms of international law on treaties, which define the conditions under which a Member State may be denied its treaty rights. It is for this particular reason that the specific norms of international law were not invoked in any of the instances when decisions were adopted to suspend Yugoslav representatives.

Such a practice constitutes a dangerous precedent being created under the auspices of the United Nations, which may have far-reaching effects. Since the

international instruments belonging to the category of treaties are valid erga omnes, it is even more difficult to understand that under these treaties citizens of a State that has proved by its behaviour so far to respect the basic standards in the field of human rights are discriminated against.

Because of this unlawful practice, which has no grounds in international law, the Government of the Federal Republic of Yugoslavia expressed its protest against this by submitting an aide-memoire to the Secretary-General of the United Nations. In that aide-memoire the Yugoslav Government clearly emphasized its readiness to respect all the commitments under the international instruments to which it is party, but, at the same time, it underlined with resolve that it is impossible to separate obligations and rights, which are equal for all the Member States. It also pointed out that if a group of countries arranges for a decision to be adopted to suspend the rights of Yugoslavia as a Member State, by the same token, it has suspended, contrary to Yugoslavia's will and orientation, its obligations emanating from international instruments.

Moreover, it is unacceptable and dangerous that some States adopt decisions contrary to the opinion and position of the Legal Counsel of the United Nations (A/47/485) and the opinion of 16 November 1993, according to which General Assembly resolution 47/1 of 22 September 1992 has no bearing on the status of Yugoslavia as a party to international treaties. Such arbitrariness of a group of countries, which initiated action to prevent representatives of the Federal Republic of Yugoslavia from participating in the work of the meetings of States parties to the aforementioned Conventions, brings into question the basic principles of international law and the Charter of the United Nations, as well as the authority of the main organs of the United Nations.

In conclusion, I wish to express my hope that, by accepting the above arguments, you will, in view of your capacity, see to it that such unlawful acts against the Federal Republic of Yugoslavia are not repeated in the future, thus preventing this dangerous precedent and political manipulations from becoming a regular practice within the United Nations.

Vladislav JOVANOVIĆ